

1 **UNITED STATES DISTRICT COURT**
2 **FOR THE**
3 **EASTERN DISTRICT OF PENNSYLVANIA**

4 **HENRY RUBY,**)

5 Plaintiff)

6 v.)

7 **DISH NETWORK, LLC,**)

8 Defendant)

9 **Case No.:**

10 **COMPLAINT AND DEMAND FOR**
 JURY TRIAL

11
12 **COMPLAINT**

13 HENRY RUBY (“Plaintiff”), by and through his attorneys, KIMMEL &
14 SILVERMAN, P.C., alleges the following against DISH NETWORK, LLC
15 (“Defendant”):

16
17 **INTRODUCTION**

18 1. Plaintiff’s Complaint is based on the Telephone Consumer Protection
19 Act (“TCPA”).

20
21 **JURISDICTION AND VENUE**

22 2. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See
23 Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

24 3. Defendant conducts business in the Commonwealth of Pennsylvania
25 and as such, personal jurisdiction is established.

1 14. The automated calls began with a noticeable delay or pause with no
2 caller on the line before Plaintiff was transferred to a representative or the call
3 terminated.
4

5 15. Defendant's telephone calls were not made for "emergency purposes."

6 16. Shortly after calls began in or around late 2016, Plaintiff first told
7 Defendant to stop calling, revoking any consent the Respondent may have had or
8 thought it had to call.
9

10 17. Once Defendant knew its calls were unwanted there was no lawful
11 purpose in continuing to call Plaintiff.
12

13 18. However, Defendant continue to call Plaintiff through April 2017.

14 19. Plaintiff found Defendant's repeated calls to be harassing, invasive,
15 frustrating, annoying, and upsetting.
16

17 **COUNT I**
18 **DEFENDANT VIOLATED THE**
19 **TELEPHONE CONSUMER PROTECTION ACT**

20 20. Plaintiff incorporates the forgoing paragraphs as though the same were
21 set forth at length herein.

22 21. Defendant initiated multiple automated telephone calls to Plaintiff's
23 cellular telephone using a prerecorded voice.

24 22. Defendant initiated these automated calls to Plaintiff using an
25 automatic telephone dialing system.

1 23. Defendant's calls to Plaintiff were not made for emergency purposes.

2 24. After Plaintiff told Defendant to stop calling, the Defendant knew or
3 should have known it did not have consent to call and/or that any consent it
4 thought it had was revoked, yet willfully and/or knowingly continued to place calls
5 to Plaintiff's cellular telephone using an automatic telephone dialing system and/or
6 pre-recorded voice.
7

8 25. Defendant's acts as described above were done with malicious,
9 intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights
10 under the law and with the purpose of harassing Plaintiff.
11

12 26. The acts and/or omissions of Defendant were done unfairly,
13 unlawfully, intentionally, deceptively and fraudulently and absent bona fide error,
14 lawful right, legal defense, legal justification or legal excuse.
15

16 27. As a result of the above violations of the TCPA, Plaintiff has suffered
17 the losses and damages as set forth above entitling Plaintiff to an award of
18 statutory, actual and trebles damages.
19
20
21
22
23
24
25

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, HENRY RUBY, respectfully prays for a judgment as follows:

- a. All actual damages suffered pursuant to 47 U.S.C. § 227(b)(3)(A);
- b. Statutory damages of \$500.00 per telephone call pursuant to 47 U.S.C. § 227(b)(3)(B);
- c. Treble damages of \$1,500.00 per telephone call pursuant to 47 U.S.C. § 227(b)(3) or alternatively that amount for all calls made after Defendant was notified that they were calling the wrong person and wrong number;
- d. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3);
- e. Any other relief deemed appropriate by this Honorable Court.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, HENRY RUBY, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,

DATED: January 31, 2018

KIMMEL & SILVERMAN, P.C.

By: /s/Amy L.B. Ginsburg
AMY L.B. GINSBURG
Attorney ID # 202745
Kimmel & Silverman, P.C.
30 E. Butler Pike
Ambler, PA 19002
Phone: (215) 540-8888
Fax: (877) 788-2864
Email: teamkimmel@creditlaw.com